

# COMMITTEE REPORT

## MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-6-2-1.3 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2001]: **Sec. 1.3. The attorney general shall perform all functions,**
- 5 **duties, and responsibilities necessary to regulate athlete agents**
- 6 **under IC 25-5.2.**
- 7 SECTION 2. IC 4-21.5-3-4 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Notice must be
- 9 given under this section concerning the following:
- 10 (1) The grant, renewal, restoration, transfer, or denial of a license
- 11 by the bureau of motor vehicles under IC 9.
- 12 (2) The grant, renewal, restoration, transfer, or denial of a
- 13 noncommercial fishing or hunting license by the department of
- 14 natural resources under IC 14.
- 15 (3) The grant, renewal, restoration, transfer, or denial of a license
- 16 by a board described in IC 25-1-8-1.
- 17 (4) **The grant, renewal, suspension, revocation, or denial of a**
- 18 **certificate of registration under IC 25-5.2.**
- 19 (5) A personnel decision by an agency.
- 20 ~~(5)~~ (6) The grant, renewal, restoration, transfer, or denial of a

license by the department of environmental management or the commissioner of the department under the following:

(A) Environmental management laws (as defined in IC 13-11-2-71) for the construction, installation, or modification of:

(i) sewers and appurtenant facilities, devices, or structures for the collection and transport of sewage (as defined in IC 13-11-2-200) or storm water to a storage or treatment facility or to a point of discharge into the environment; or

(ii) pipes, pumps, and appurtenant facilities, devices, or structures that are part of a public water supply (as defined in IC 13-11-2-177) and that are used to transport water to a storage or treatment facility or to distribute water to the users of the public water supply;

where a federal, state, or local governmental body has given or will give public notice and has provided or will provide an opportunity for public participation concerning the activity that is the subject of the license.

(B) Environmental management laws (as defined in IC 13-11-2-71) for the registration of a device or a piece of equipment.

(C) IC 13-17-6-1 for a person to engage in the inspection, management, and abatement of asbestos containing material.

(D) IC 13-18-11 for a person to operate a wastewater treatment plant.

(E) IC 13-15-10 for a person to operate the following:

(i) A solid waste incinerator or a waste to energy facility.

(ii) A land disposal site.

(iii) A facility described under IC 13-15-1-3 whose operation could have an adverse impact on the environment if not operated properly.

(F) IC 13-20-4 for a person to operate a municipal waste collection and transportation vehicle.

(b) When an agency issues an order described by subsection (a), the agency shall give a written notice of the order to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party

1 to any proceeding resulting from the grant of a petition for review  
 2 under section 7 of this chapter unless the person is designated as a  
 3 party on the record of the proceeding.

4 (c) The notice must include the following:

5 (1) A brief description of the order.

6 (2) A brief explanation of the available procedures and the time  
 7 limit for seeking administrative review of the order under section  
 8 7 of this chapter.

9 (3) Any information required by law.

10 (d) An order under this section is effective when it is served.  
 11 However, if a timely and sufficient application has been made for  
 12 renewal of a license described by subsection (a)(3) and review is  
 13 granted under section 7 of this chapter, the existing license does not  
 14 expire until the agency has disposed of the proceeding under this  
 15 chapter concerning the renewal, unless a statute other than this article  
 16 provides otherwise. This subsection does not preclude an agency from  
 17 issuing under IC 4-21.5-4 an emergency or other temporary order with  
 18 respect to the license.

19 (e) If a petition for review of an order described in subsection (a) is  
 20 filed within the period set by section 7 of this chapter and a petition for  
 21 stay of effectiveness of the order is filed by a party or another person  
 22 who has a pending petition for intervention in the proceeding, an  
 23 administrative law judge shall, as soon as practicable, conduct a  
 24 preliminary hearing to determine whether the order should be stayed in  
 25 whole or in part. The burden of proof in the preliminary hearing is on  
 26 the person seeking the stay. The administrative law judge may stay the  
 27 order in whole or in part. The order concerning the stay may be issued  
 28 after an order described in subsection (a) becomes effective. The  
 29 resulting order concerning the stay shall be served on the parties and  
 30 any person who has a pending petition for intervention in the  
 31 proceeding. It must include a statement of the facts and law on which  
 32 it is based.

33 SECTION 3. IC 25-1-2-2.1 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. Rather than being  
 35 issued annually, the following permits, licenses, certificates of  
 36 registration, or evidences of authority granted by a state agency must  
 37 be issued for a period of two (2) years or for the period specified in the  
 38 article under which the permit, license, certificate of registration, or

evidence of authority is issued if the period specified in the article is longer than two (2) years:

- (1) Certified public accountants, public accountants, and accounting practitioners.
- (2) Architects and landscape architects.
- (3) Dry cleaners.
- (4) Professional engineers.
- (5) Land surveyors.
- (6) Real estate brokers.
- (7) Real estate agents.
- (8) Security dealers' licenses issued by the securities commissioner.
- (9) Dental hygienists.
- (10) Dentists.
- (11) Veterinarians.
- (12) Physicians.
- (13) Chiropractors.
- (14) Physical therapists.
- (15) Optometrists.
- (16) Pharmacists and assistants, drugstores or pharmacies.
- (17) Motels and mobile home park licenses.
- (18) Nurses.
- (19) Podiatrists.
- (20) Occupational therapists and occupational therapy assistants.
- (21) Respiratory care practitioners.
- (22) Social workers, marriage and family therapists, and mental health counselors.
- (23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
- (24) Wholesale legend drug distributors.
- (25) Physician assistants.
- (26) Dietitians.
- (27) Hypnotists.
- (28) Athlete agents.**

SECTION 4. IC 25-1-2-6, AS AMENDED BY P.L.82-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and

1 certificates issued under the Indiana Code, and "licensee" includes all  
2 occupational and professional licensees, registrants, permittees, and  
3 certificate holders regulated under the Indiana Code.

4 (b) This section applies to the following entities that regulate  
5 occupations or professions under the Indiana Code:

- 6 (1) Indiana board of accountancy.
- 7 (2) Indiana grain buyers and warehouse licensing agency.
- 8 (3) Indiana auctioneer commission.
- 9 (4) Board of registration for architects and landscape architects.
- 10 (5) State board of barber examiners.
- 11 (6) State board of cosmetology examiners.
- 12 (7) Medical licensing board of Indiana.
- 13 (8) Secretary of state.
- 14 (9) State board of dentistry.
- 15 (10) State board of funeral and cemetery service.
- 16 (11) Worker's compensation board of Indiana.
- 17 (12) Indiana state board of health facility administrators.
- 18 (13) Committee of hearing aid dealer examiners.
- 19 (14) Indiana state board of nursing.
- 20 (15) Indiana optometry board.
- 21 (16) Indiana board of pharmacy.
- 22 (17) Indiana plumbing commission.
- 23 (18) Board of podiatric medicine.
- 24 (19) Private detectives licensing board.
- 25 (20) State board of registration for professional engineers.
- 26 (21) Board of environmental health specialists.
- 27 (22) State psychology board.
- 28 (23) Indiana real estate commission.
- 29 (24) Speech-language pathology and audiology board.
- 30 (25) Department of natural resources.
- 31 (26) State boxing commission.
- 32 (27) Board of chiropractic examiners.
- 33 (28) Mining board.
- 34 (29) Indiana board of veterinary medical examiners.
- 35 (30) State department of health.
- 36 (31) Indiana physical therapy committee.
- 37 (32) Respiratory care committee.
- 38 (33) Occupational therapy committee.

(34) Social worker, marriage and family therapist, and mental health counselor board.

(35) Real estate appraiser licensure and certification board.

(36) State board of registration for land surveyors.

(37) Physician assistant committee.

(38) Indiana dietitians certification board.

(39) Indiana hypnotist committee.

(40) **Attorney general (only for the regulation of athlete agents).**

(41) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 5. IC 25-5.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

## **ARTICLE 5.2. ATHLETE AGENTS**

### **Chapter 1. Short Title and Definitions**

**Sec. 1. This article may be cited as the Uniform Athlete Agents Act.**

**Sec. 2. The following definitions apply throughout this article:**

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract.

(2) "Applicant" means an individual who applies for a certificate of registration as an athlete agent under this article.

(3) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an

1 agency contract. The term includes an individual who  
2 represents to the public that the individual is an athlete agent.  
3 The term does not include a spouse, parent, sibling,  
4 grandparent, or guardian of the student athlete or an  
5 individual acting solely on behalf of a professional sports team  
6 or professional sports organization.

7 (4) "Athletic director" means an individual responsible for  
8 administering the overall athletic program of an educational  
9 institution or, if an educational institution has separately  
10 administered athletic programs for male students and female  
11 students, the athletic program for males or the athletic  
12 program for females, as appropriate.

13 (5) "Contact" means a communication, direct or indirect,  
14 between an athlete agent and a student athlete, to recruit or  
15 solicit the student athlete to enter into an agency contract.

16 (6) "Endorsement contract" means an agreement under  
17 which a student athlete is employed or receives consideration  
18 to use on behalf of the other party any value that the student  
19 athlete may have because of publicity, reputation, following,  
20 or fame obtained because of athletic ability or performance.  
21 The term includes the value of any part of the student  
22 athlete's right of publicity (as defined in IC 32-13-1-7).

23 (7) "Intercollegiate sport" means a sport played at the  
24 collegiate level for which eligibility requirements for  
25 participation by a student athlete are established by a national  
26 association for the promotion or regulation of collegiate  
27 athletics.

28 (8) "Person" means an individual, a corporation, a business  
29 trust, an estate, a trust, a partnership, a limited liability  
30 company, an association, a joint venture, a government, a  
31 governmental subdivision, an agency, or an instrumentality,  
32 a public corporation, or any other legal or commercial entity.

33 (9) "Professional sports services contract" means an  
34 agreement under which an individual is employed, or agrees  
35 to render services, as a player on a professional sports team,  
36 with a professional sports organization, or as a professional  
37 athlete.

38 (10) "Record" means information that is inscribed on a

1           tangible medium or that is stored in an electronic or other  
2           medium and is retrievable in perceivable form.

3           (11) "Registration" means registration as an athlete agent  
4           under this article.

5           (12) "State" means a state of the United States, the District of  
6           Columbia, Puerto Rico, the United States Virgin Islands, or  
7           any territory or insular possession subject to the jurisdiction  
8           of the United States.

9           (13) "Student athlete" means an individual who engages in, is  
10          eligible to engage in, or may be eligible in the future to engage  
11          in any intercollegiate sport. If an individual is permanently  
12          ineligible to participate in a particular intercollegiate sport,  
13          the individual is not a student athlete for purposes of that  
14          sport.

## 15           Chapter 2. Athlete Agent Registration

16          Sec. 1. (a) By acting as an athlete agent in Indiana, a nonresident  
17          individual appoints the attorney general as the individual's agent  
18          for service of process in any civil action in Indiana related to the  
19          individual's acting as an athlete agent in Indiana.

20          (b) The attorney general may issue subpoenas for any material  
21          that is relevant to the administration of this article.

22          Sec. 2. (a) Except as otherwise provided in subsection (b), an  
23          individual may not act as an athlete agent in Indiana without  
24          holding a certificate of registration under section 4 or 6 of this  
25          chapter.

26          (b) Before being issued a certificate of registration, an  
27          individual may act as an athlete agent in Indiana for all purposes  
28          except signing an agency contract, if:

29               (1) a student athlete or another person acting on behalf of the  
30               student athlete initiates contact with the individual; and

31               (2) within seven (7) days after an initial act as an athlete  
32               agent, the individual submits an application for registration  
33               as an athlete agent in Indiana.

34          (c) An agency contract resulting from conduct in violation of  
35          this section is void and the athlete agent shall return any  
36          consideration received under the contract.

37          Sec. 3. (a) An applicant for registration shall submit an  
38          application for registration to the attorney general in a form



1 prescribed by the attorney general. An application filed under this  
2 section is a public record under IC 5-14-3. The application must be  
3 in the name of an individual and, except as otherwise provided in  
4 subsection (b), signed or otherwise authenticated by the applicant  
5 under penalty of perjury and contain the following information:

6 (1) The name of the applicant and the address of the  
7 applicant's principal place of business.

8 (2) The name of the applicant's business or employer, if  
9 applicable.

10 (3) Any business or occupation engaged in by the applicant for  
11 the five (5) years immediately preceding the date of  
12 submission of the application.

13 (4) A description of the applicant's:

14 (A) formal training as an athlete agent;

15 (B) practical experience as an athlete agent; and

16 (C) educational background relating to the applicant's  
17 activities as an athlete agent.

18 (5) The names and addresses of three (3) individuals not  
19 related to the applicant who are willing to serve as references.

20 (6) The name, sport, and last known team for each individual  
21 for whom the applicant acted as an athlete agent during the  
22 five (5) years immediately preceding the date of submission of  
23 the application.

24 (7) The names and addresses of all persons who are:

25 (A) with respect to the athlete agent's business if it is not a  
26 corporation, the partners, members, officers, managers,  
27 associates, or profit sharers of the business; and

28 (B) with respect to a corporation employing the athlete  
29 agent, the officers, directors, and any shareholder of the  
30 corporation having an interest of five percent (5%) or  
31 greater.

32 (8) Whether the applicant or any person named in subdivision  
33 (7) has been convicted of a crime that, if committed in  
34 Indiana, would be a crime involving moral turpitude or a  
35 felony, and identify the crime.

36 (9) Whether there has been any administrative or judicial  
37 determination that the applicant or any person named in  
38 subdivision (7) has made a false, misleading, deceptive, or

1           fraudulent representation.

2           (10) A description of any instance in which the conduct of the  
3           applicant or any person named in subdivision (7) resulted in  
4           the imposition of a sanction, suspension, or declaration of  
5           ineligibility to participate in an interscholastic or  
6           intercollegiate athletic event on a student athlete or  
7           educational institution.

8           (11) A description of any sanction, suspension, or disciplinary  
9           action taken against the applicant or any person named in  
10          subdivision (7) arising out of occupational or professional  
11          conduct.

12          (12) Whether there has been any denial of an application for,  
13          suspension or revocation of, or refusal to renew the  
14          registration or licensure of the applicant or any person named  
15          in subdivision (7) as an athlete agent in any state.

16          (b) An individual who has submitted an application for and  
17          holds a certificate of registration or licensure as an athlete agent in  
18          another state may submit a copy of the application and certificate  
19          instead of submitting an application in the form prescribed under  
20          subsection (a). The attorney general shall accept the application  
21          and the certificate from the other state as an application for  
22          registration in Indiana if the application to the other state:

23               (1) was submitted in the other state within six (6) months  
24               immediately preceding the submission of the application in  
25               Indiana and the applicant certifies that the information  
26               contained in the application is current;

27               (2) contains information substantially similar to or more  
28               comprehensive than that required in an application submitted  
29               in Indiana; and

30               (3) was signed by the applicant under penalty of perjury.

31          Sec. 4. (a) Except as otherwise provided in subsection (b), the  
32          attorney general shall issue a certificate of registration to an  
33          individual who complies with the requirements of section 3(a) of  
34          this chapter or whose application has been accepted under section  
35          3(b) of this chapter.

36          (b) The attorney general may refuse to issue a certificate of  
37          registration if the attorney general determines that the applicant  
38          has engaged in conduct that has a significant adverse effect on the

1 applicant's fitness to act as an athlete agent. In making the  
2 determination, the attorney general may consider whether any of  
3 the following apply to the applicant:

4 (1) The applicant has been convicted of a crime that, if  
5 committed in Indiana, would be a crime involving moral  
6 turpitude or a felony.

7 (2) The applicant made a materially false, misleading,  
8 deceptive, or fraudulent representation in the application or  
9 as an athlete agent.

10 (3) The applicant has engaged in conduct that would  
11 disqualify the applicant from serving in a fiduciary capacity.

12 (4) The applicant has engaged in conduct prohibited by  
13 section 12 of this chapter.

14 (5) The applicant has had a registration or a license as an  
15 athlete agent suspended, revoked, or denied or been refused  
16 renewal of a registration or a license as an athlete agent in  
17 any state.

18 (6) The applicant has engaged in conduct the consequences of  
19 which were that a sanction, suspension, or declaration of  
20 ineligibility to participate in an interscholastic or  
21 intercollegiate athletic event was imposed on a student athlete  
22 or educational institution.

23 (7) The applicant has engaged in conduct that significantly  
24 adversely reflects on the applicant's credibility, honesty, or  
25 integrity.

26 (c) In making a determination under subsection (b), the attorney  
27 general shall consider the following:

28 (1) How recently the conduct occurred.

29 (2) The nature of the conduct and the context in which it  
30 occurred.

31 (3) Any other relevant conduct of the applicant.

32 (d) An athlete agent may apply to renew a registration by  
33 submitting an application for renewal in a form prescribed by the  
34 attorney general. An application filed under this subsection is a  
35 public record under IC 5-14-3. The application for renewal must  
36 be signed by the applicant under penalty of perjury and must  
37 contain current information on all matters required by section 3(a)  
38 of this chapter for an original registration.

(e) An individual who has submitted an application for renewal of a registration or a license in another state, instead of submitting an application for renewal in the form prescribed under subsection (d), may file a copy of the application for renewal and a valid certificate of registration or a valid license from the other state. The attorney general shall accept the application for renewal from the other state as an application for renewal in Indiana if the application to the other state:

- (1) was submitted in the other state within six (6) months immediately preceding the filing in Indiana and the applicant certifies that the information contained in the application for renewal is current;
- (2) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in Indiana; and
- (3) was signed by the applicant under penalty of perjury.

(f) A certificate of registration or a renewal of a registration is valid for two (2) years.

Sec. 5. (a) The attorney general may suspend, revoke, or refuse to renew a certificate of registration for conduct that would have justified denial of registration under section 4(b) of this chapter.

(b) The attorney general may deny, suspend, revoke, or refuse to renew a certificate of registration only after proper notice and an opportunity for a hearing under IC 4-21.5.

Sec. 6. The attorney general may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

Sec. 7. A fee established by the attorney general in accordance with IC 25-1-8-2 must accompany an application for registration or renewal of registration.

Sec. 8. (a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must contain the following:

- (1) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for

- 1 providing the services.
- 2 (2) The name of any person not listed in the application for
- 3 registration or renewal of registration who will be
- 4 compensated because the student athlete signed the agency
- 5 contract.
- 6 (3) A description of any expenses that the student athlete
- 7 agrees to reimburse.
- 8 (4) A description of the services to be provided to the student
- 9 athlete.
- 10 (5) The duration of the contract.
- 11 (6) The date of execution.
- 12 (c) An agency contract must contain, in close proximity to the
- 13 signature of the student athlete, a conspicuous notice in boldface
- 14 type in capital letters stating:
- 15 **WARNING TO STUDENT ATHLETE**
- 16 **IF YOU SIGN THIS CONTRACT:**
- 17 **(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE**
- 18 **AS A STUDENT ATHLETE IN YOUR SPORT;**
- 19 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU**
- 20 **AND YOUR ATHLETE AGENT MUST GIVE TO YOUR**
- 21 **ATHLETIC DIRECTOR THE TEN (10) DAY NOTICE**
- 22 **REQUIRED BY IC 25-5.2-2-9 AND IC 35-46-4-4 BEFORE**
- 23 **EXECUTING THIS CONTRACT; AND**
- 24 **(3) YOU MAY CANCEL THIS CONTRACT WITHIN**
- 25 **FOURTEEN (14) DAYS AFTER SIGNING IT.**
- 26 **CANCELLATION OF THIS CONTRACT MAY NOT**
- 27 **REINSTATE YOUR ELIGIBILITY.**
- 28 (d) An agency contract that does not conform to this section is
- 29 voidable by the student athlete. If a student athlete voids an agency
- 30 contract, the student athlete is not required to pay any
- 31 consideration under the contract or to return any consideration
- 32 received from the athlete agent to induce the student athlete to
- 33 enter into the contract.
- 34 (e) The athlete agent shall give a record of the signed or
- 35 otherwise authenticated agency contract to the student athlete at
- 36 the time of execution.
- 37 **Sec. 9. (a) At least ten (10) days before a student athlete enters**
- 38 **into an agency contract, the athlete agent shall give in a record the**

notice required by IC 35-46-4-4 of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(b) At least ten (10) days before entering into an agency contract, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled or intends to enroll that the student athlete intends to enter into an agency contract.

Sec. 10. (a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.

(b) A student athlete may not waive the right to cancel an agency contract.

(c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

Sec. 11. (a) An athlete agent shall retain the following records for a period of five (5) years:

(1) The name and address of each individual represented by the athlete agent.

(2) A copy of any agency contract entered into by the athlete agent.

(3) A record of any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(b) Records required by subsection (a) to be retained are open to inspection by the attorney general during normal business hours.

Sec. 12. (a) An athlete agent who, with the intent to induce a student athlete to enter into an agency contract:

(1) gives any materially false or misleading information or makes a materially false promise or representation;

(2) furnishes anything of value to a student athlete before the student athlete enters into the agency contract; or

(3) furnishes anything of value to any individual other than the student athlete or another registered athlete agent;

1 commits a Class D felony.

2 (b) An athlete agent who intentionally:

3 (1) initiates contact with a student athlete unless registered  
4 under this article;

5 (2) refuses or fails to retain or permit inspection of the  
6 records required to be retained by section 11 of this chapter;

7 (3) fails to register when required by section 2 of this chapter;

8 (4) provides materially false or misleading information in an  
9 application for registration or renewal of registration;

10 (5) predates or postdates an agency contract; or

11 (6) fails to notify a student athlete before the student athlete  
12 signs or otherwise authenticates an agency contract for a  
13 particular sport that the signing or authentication may make  
14 the student athlete ineligible to participate as a student athlete  
15 in that sport;

16 commits a Class D felony.

17 Sec. 13. (a) An educational institution has a right of action  
18 against an athlete agent or a former student athlete for damages  
19 caused by a violation of this article. In an action under this section,  
20 the court may award to the prevailing party costs and reasonable  
21 attorney's fees.

22 (b) Damages of an educational institution under subsection (a)  
23 include losses and expenses incurred because, as a result of the  
24 conduct of an athlete agent or former student athlete, the  
25 educational institution was injured by a violation of this article or  
26 was penalized, disqualified, or suspended from participation in  
27 athletics by a national association for the promotion and regulation  
28 of athletics, by an athletic conference, or by reasonable  
29 self-imposed disciplinary action taken to mitigate sanctions likely  
30 to be imposed by such an organization.

31 (c) A right of action under this section does not accrue until the  
32 educational institution discovers or by the exercise of reasonable  
33 diligence would have discovered the violation by the athlete agent  
34 or former student athlete.

35 (d) Any liability of the athlete agent or the former student  
36 athlete under this section is several and not joint.

37 (e) This article does not restrict rights, remedies, or defenses of  
38 any person under law or equity.

1       **Sec. 14. (a) A person who violates this article is subject to a civil**  
 2       **penalty not to exceed twenty-five thousand dollars (\$25,000) for**  
 3       **each violation, as determined by the court. All civil penalties**  
 4       **recovered under this chapter shall be deposited in the state general**  
 5       **fund.**

6       **(b) In addition to the civil penalty imposed under subsection (a),**  
 7       **the attorney general may restrict, suspend, or revoke a certificate**  
 8       **of registration of an athlete agent for violation of this article.**

9       **(c) The attorney general may institute and conduct an action in**  
 10       **the name of the state of Indiana for any of the following:**

11       **(1) An injunction in any circuit or superior court of Indiana**  
 12       **for injunctive relief to restrain a person from continuing any**  
 13       **activity that violates this article.**

14       **(2) The assessment and recovery of the civil penalty provided**  
 15       **in subsection (a).**

16       **(d) The attorney general may present any evidence of a crime**  
 17       **under section 12 of this chapter to any prosecuting attorney for**  
 18       **initiation of criminal proceedings against the offender. The**  
 19       **attorney general shall cooperate with the prosecuting attorney in**  
 20       **the prosecution of the offense.**

21       **Sec. 15. In applying and construing this uniform act,**  
 22       **consideration must be given to the need to promote uniformity of**  
 23       **the law with respect to its subject matter among the states that**  
 24       **enact it.**

25       **Sec. 16. The provisions of this article governing the legal effect,**  
 26       **validity, or enforceability of electronic records or signatures, and**  
 27       **of contracts formed or performed with the use of such records or**  
 28       **signatures conform to the requirements of Section 102 of the**  
 29       **Electronic Signatures in Global and National Commerce Act, Pub.**  
 30       **L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and**  
 31       **limit the Electronic Signatures in Global and National Commerce**  
 32       **Act.**

33       **SECTION 6. IC 32-13-1-8 IS AMENDED TO READ AS**  
 34       **FOLLOWS[EFFECTIVE JULY 1, 2001]: Sec. 8. (a) A person may not**  
 35       **use an aspect of a personality's right of publicity for a commercial**  
 36       **purpose during the personality's lifetime or for one hundred (100) years**  
 37       **after the date of the personality's death without having obtained**  
 38       **previous written consent from a person specified in section 17 of this**



1 chapter.

2 (b) A written consent solicited by or negotiated by an athlete  
3 agent (as defined in IC 25-5.2-1-1) from a student athlete (as  
4 defined in IC 25-5.2-1-1) is void if the athlete agent obtained the  
5 consent as the result of an agency contract that:

6 (1) was void under IC 25-5.2-2-2 or under the law of the state  
7 where the agency contract was entered into;

8 (2) was voided by the student athlete under IC 25-5.2-2-8 or  
9 a similar law in the state where the agency contract was  
10 entered into; or

11 (3) was entered into without the notice required under  
12 IC 35-46-4-4 or a similar law in the state where the agency  
13 contract was entered into.

14 (c) A written consent for an endorsement contract (as defined  
15 in IC 35-46-4-1.5) is void if notice is not given as required by  
16 IC 35-46-4-4 or a similar law where the endorsement contract is  
17 entered into.

18 SECTION 7. IC 35-46-4-1 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this  
20 chapter, "agent contract" means a contract or agreement in which a  
21 student athlete authorizes a person to negotiate or solicit on behalf of  
22 the student athlete:

23 (1) **an agreement** with a professional sports team for:

24 ~~(1)~~ (A) the employment **of the student athlete** by a  
25 professional sports team **or organization**; or

26 ~~(2)~~ (B) the employment **of the student athlete** as a  
27 professional athlete; **or**

28 (2) **an endorsement contract**.

29 SECTION 8. IC 35-46-4-1.5 IS ADDED TO THE INDIANA CODE  
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
31 1, 2001]: Sec. 1.5. As used in this chapter, "endorsement contract"  
32 means an agreement under which a student athlete is employed or  
33 receives consideration to use, on behalf of the other party, any  
34 value that the student athlete may have because of publicity,  
35 reputation, following, or fame obtained because of athletic ability  
36 or performance. The term includes the value of any part of the  
37 student athlete's right of publicity (as defined in IC 32-13-1-7).

38 SECTION 9. IC 35-46-4-2 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this  
 2 chapter, "professional sports services contract" means a contract or  
 3 agreement in which a person is employed or agrees to render services:  
 4 ~~as:~~

5 (1) ~~as~~ a player on a professional sports team; ~~or~~

6 (2) ~~as~~ a professional athlete; ~~or~~

7 (3) **with a professional sports organization.**

8 SECTION 10. IC 35-46-4-3 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. As used in this  
 10 chapter, "student athlete" means a person who is:

11 (1) enrolled ~~or intends to enroll~~ in a course of study in a public  
 12 or private college or university; and

13 (2) eligible to ~~participate~~ **engage** in, **or may be eligible in the**  
 14 **future to engage in**, an intercollegiate sporting event, contest,  
 15 exhibition, or program for the college or university in which the  
 16 person is enrolled ~~or intends to enroll~~.

17 SECTION 11. IC 35-46-4-4 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. A person who  
 19 knowingly or intentionally:

20 (1) enters into an agent contract, **an endorsement contract**, or a  
 21 professional sports services contract with a student athlete; and

22 (2) no later than ten (10) days before the contract is executed,  
 23 fails to give written notice to the head of the athletic department  
 24 for the college or university in which the student athlete is  
 25 enrolled as a student ~~or intends to enroll as a student~~ that  
 26 identifies:

27 (A) the name and business address of each party to the  
 28 contract;

29 (B) whether the contract is an agent contract, **an endorsement**  
 30 **contract**, or a professional sports services contract; and

31 (C) the date that the contract will be executed;

32 commits failure to disclose recruitment, a Class D felony.

1       SECTION 12. [EFFECTIVE JULY 1, 2001] **IC 32-13-1-8, as**  
2       **amended by this act, applies only to written consents obtained after**  
3       **July 1, 2001.**

(Reference is to SB 171 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Bray**

**Chairperson**